Accountability Report

2015–2016

Public Prosecution Service

NOVA SCOTIA

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Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2016 is prepared pursuant to the Finance Act and government policies and guidelines. These authorities require the reporting of outcomes against the Public Prosecution Service=s Statement of Mandate for the fiscal year just ended. The reporting of the Public Prosecution Service outcomes necessarily includes estimates, judgments and opinions by the Public Prosecution Service.

We acknowledge that this accountability report is the responsibility of the Nova Scotia Public Prosecution Service. This report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Public Prosecution Service 2015-2016 Statement of Mandate.

In terms of accountability, it should be noted that the Nova Scotia Public Prosecution Service was established in 1990 as the first statutorily-based independent prosecution service in Canada. All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions. Crown Attorneys responsible to the Director conduct prosecutions independently of the Minister. The only limitation on the operational independence of the Director permitted by the Public Prosecutions Act arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

Original signed by

Martin E. Herschorn QC Date August 8, 2016
Director of Public Prosecutions

Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2015-2016.

This year our 92 Crown Attorneys across the province dealt with 38,611 criminal charges and prosecuted 10,161 provincial statute violations.

As part of its ongoing governance of the e-disclosure initiative, the PPS developed a system to support role-based electronic transfers which would eliminate the use of CD/DVDs. The PPS has identified an IT solution for electronic file transfer which will be evaluated in a pilot project in the next fiscal period.

The PPS also entered into detailed negotiations with the Ontario government to test its case management system in Nova Scotia to meet prosecution service management and business intelligence requirements. This software will be fully evaluated and tested in the next fiscal period.

Education and training was again a major priority for the PPS this year. Crown Attorneys attended the PPS=s annual fall educational conference for three days of education on a variety of criminal law topics. Additionally, the PPS in collaboration with the RCMP held a specialized training program focusing on internet child exploitation. Some 20 Crown Attorneys attended. Further, a number of Crown Attorneys attended Ontario Crown School and the National Criminal Law Program. Specialized training was also provided to several Crown Attorneys on discrete subjects.

Policy development was a focus this year. Ten PPS policies were updated and four new policies were developed and implemented. The new policies covered image exploitation, publication bans, immunity from prosecution and direct indictments. The PPS is striving for service-wide compliance to its policy on providing advice to police. An internal committee has drafted amendments to the existing policy.

The PPS continued to focus on the prosecution of regulatory offences especially those under the Occupational Health and Safety Act. Prosecutors dedicated to the prosecution of such offences provided training programs for police and investigators.

Reducing delay in the processing of court cases continues to be a focus. The PPS works in collaboration with justice partners in this effort through the Criminal Justice Transformation Group.

The PPS continues to monitor cases for inclusion of appropriate high-risk offenders in the national

flagging program. Nova Scotia flagged additional high-risk offenders this year for a total of 38 in a national data base of more than 10,000.

The processing of FOIPOP requests were transitioned this year to the new Corporate Information, Access and Privacy Office.

The PPS continues to provide communications designed to enhance community understanding of the role of the Crown Attorney and of the prosecutorial process. As was the case last year, issues management required significant resources with regard to many ongoing high profile cases.

Original signed by

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Martin E. Herschorn QC
Director of Public Prosecutions

Financial Results

	2015-2016 Estimate	2015-2016 Actual
Program and Service Area	($ thousands)	($ thousands)
GROSS DEPARTMENTAL EXPENSES		
Head Office	2,700	2,680
Cape Breton Region	3,554	3,434
Central Region	3,026	3,135
Halifax Region	7,539	7,856
Western Region	3,048	3,209
Special Prosecutions	1,815	1,646
Appeals	1,141	1,119
Total Gross Departmental Expenses	22,823	23,079
ADDITIONAL INFORMATION:		
Fees and Other Charges	0	0
Ordinary Recoveries	262	237
TCA Purchase Requirements	B	–
Provincial Funded Staff (FTEs)	167.8	163.7

Measuring Our Performance

OUTCOME DESCRIPTION	WHAT DOES THIS MEASURE TELL US?	WHERE ARE WE NOW?	WHERE DO WE WANT TO BE?
High quality trial work	That the PPS is delivering high quality trial work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality trial work in presenting the evidence thoroughly and fairly to ensure the proper verdict is reached.	All Nova Scotia Crown Attorneys have achieved a performance rating of competent or higher. They are generally given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.	Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.
High quality appeal work	That the PPS is delivering high quality appeals work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality appeal work in presenting the evidence thoroughly and fairly to ensure the proper decision is reached.	All Appeals Crown Attorneys have achieved a performance rating of competent or higher. They are always given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place.	Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court.

Provide police with high quality legal advice and assistance	That the PPS is providing police with high quality legal advice and assistance when requested during the course of police investigations. This helps police in collecting evidence and laying appropriate charges. Ultimately, high quality legal advice to police helps to ensure quality trial work when the case goes to court.	The PPS continues to provide timely responses to requests from police and provincial enforcement officers for legal advice on particular cases or direction on matters of criminal law. The PPS requires Crown Attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice.	All advice to police should be examined and evaluated to make a determination on volume and Crown workload. As well, a quality assessment analysis should be undertaken.
Provide Crown representation in the development of criminal law and criminal prosecution policy	That the PPS provides input into the development of criminal law and criminal prosecution policy from both an administrative and a frontline perspective.	The PPS participates in joint meetings, including Federal/Provincial/Territorial (FPT) Ministers and Deputy Ministers meetings, Coordinating Committee of Senior Justice Officials and FPT Heads of Prosecutions, meetings of the Provincial Justice Partners Committee and the International Association of Prosecutors. Crown Attorneys also participate in provincial policy initiatives. The PPS continues to liaise with other prosecution services to maintain awareness of best practices for delivery of prosecution services.	To maintain or enhance the existing level of contribution to policy development.

APPENDICES

All statistics with the exception of appeals received
through the kind co-operation of the Nova Scotia Department of Justice

APPENDIX A

Criminal Code Charges in Provincial Court
by Offence Category and Judicial Centre 2015-2016

OFFENCE CATEGORIES	HALIFAX	DARTMOUTH	AMHERST	KENTVILLE	BRIDGEWATER	PICTOU
Homicide	6	7	0	0	0	1
Attempted Murder	7	19	0	0	0	0
Robbery	134	87	0	9	16	6
Sexual Assault	84	41	14	49	35	13
Other Sexual Offences	100	67	16	74	49	20
Major Assault	466	398	53	93	47	50
Common Assault	636	524	90	258	187	144
Uttering Threats	344	306	81	129	90	102
Criminal Harassment	50	43	2	12	13	6
Other Crimes Against a Person	103	73	11	58	11	8
Theft of Motor Vehicle	64	33	11	16	9	2
Theft	966	469	63	233	78	95
Break and Enter	155	124	19	38	95	18
Fraud	433	295	17	60	50	47
Mischief	408	209	94	118	86	67
Possession Stolen Property	1,098	569	16	121	52	23
Other Property Crimes	60	44	9	23	13	0
Failure to Attend Court	152	180	9	15	9	12
Breach of Probation	1,570	945	168	195	132	57
Unlawfully at Large	59	161	0	0	1	7
Failure to Comply with Order	2,605	1,856	265	383	355	218
Other Administration of Justice	173	152	38	35	23	25
Weapons Offences	724	1,404	38	100	79	60
Prostitution	16	1	0	8	0	1
Disturbing the Peace	33	15	12	17	9	11
Residual Criminal Code	131	56	33	38	17	7
Impaired Driving	591	662	146	265	202	147
Other Criminal Code Traffic	109	154	32	59	32	22
TOTAL	11,277	8,894	1,237	2,406	1,690	1,169

Continued . . .

APPENDIX A

Criminal Code Charges in Provincial Court by Offence Category and Judicial Centre 2015-2016

OFFENCE CATEGORIES	SYDNEY	TRURO	ANTIGONISH	PORT HAWKESBURY	YARMOUTH	DIGBY	TOTAL
Homicide	2	0	0	0	0	0	16
Attempted Murder	2	0	1	0	0	2	31
Robbery	11	18	1	0	5	0	287
Sexual Assault	34	41	4	10	41	24	390
Other Sexual Offences	49	46	16	10	42	26	515
Major Assault	184	91	17	51	94	42	1,586
Common Assault	425	207	39	73	170	101	2,854
Uttering Threats	296	132	26	65	117	75	1,763
Criminal Harassment	14	14	8	1	6	6	175
Other Crimes Against a Person	69	37	5	3	22	9	409
Theft of Motor Vehicle	20	25	4	7	28	8	227
Theft	351	188	32	45	71	19	2,610
Break and Enter	113	67	11	25	36	39	740
Fraud	119	137	2	12	14	10	1,196
Mischief	305	102	21	48	107	76	1,641
Possession Stolen Property	176	127	16	24	27	12	2,261
Other Property Crimes	11	16	1	3	7	4	191
Failure to Attend Court	108	30	1	7	12	5	540
Breach of Probation	727	186	24	82	168	87	4,341
Unlawfully at Large	16	8	0	1	2	3	258
Failure to Comply with Order	1,538	513	112	207	342	250	8,644
Other Administration of Justice	90	50	18	13	38	28	683
Weapons Offences	144	122	15	34	75	69	2,864
Prostitution	0	2	0	0	0	2	30
Disturbing the Peace	16	12	4	4	5	4	142
Residual Criminal Code	46	30	0	2	11	5	376
Impaired Driving	345	334	127	89	179	106	3,193
Other Criminal Code Traffic	80	60	17	15	49	19	648
TOTAL	5,291	2,595	522	831	1,668	1,031	38,611

APPENDIX B

Provincial Statute Cases by Judicial Centre 2015- 2016
(only cases with prosecutor assigned)

	MOTOR VEHICLE ACT	LIQUOR CONTROL ACT	OTHER PROVINCIAL STATUTES	TOTAL
Halifax	5,212	120	394	5,726
Dartmouth	1,357	2	118	1,477
Amherst	186	2	28	216
Kentville	342	47	46	435
Bridgewater	205	7	64	276
Pictou	140	17	12	169
Sydney	411	22	37	470
Truro	275	11	87	373
Antigonish	100	57	16	173
Port Hawkesbury	72	9	13	94
Yarmouth	317	14	40	371
Digby	303	9	69	381
TOTAL	8,920	317	924	10,161

APPENDIX C
Appeals Branch Statistics
2015-2016

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2015 to March 31, 2016.

The Branch participated in 36 appeals heard by the Court of Appeal. Of this number:

- 3 were initiated by the Crown
- 33 were initiated by offenders

Of the appeals initiated by the Crown, two dealt with acquittal and one with sentence.

Of the 33 appeals initiated by offenders:

- 13 dealt with conviction
- 8 dealt with sentence
- 6 to each of conviction and sentence

Of the appeals initiated by offenders, one fell under the *Youth Criminal Justice Act*, two included a motion to adduce fresh evidence and in five such cases the offended was self-represented.

The Appeals Branch was involved in 17 appeals that were abandoned, quashed or dismissed without a full hearing in the Court of Appeal or were ordered transferred to the summary conviction appeal court, the Nova Scotia Supreme Court. Four had been initiated by the Crown and 13 by offenders.

The Appeals Branch participated in 201 Chambers motions heard by a single judge in the Court of Appeal. Chambers motions include motions for a hearing date and the filing of appeal books and factums, adjournments, bail pending appeal, extension of time to appeal, directions and status updates in appeals, appointment of counsel in prisoners' appeals and striking appeals from the Court's docket. Uncontested motions are usually conducted over the telephone (teleconference Chambers) and both contested and uncontested motions are heard in open court (regular Chambers).

The Appeals Branch received six recommendations for appeal from trial Crown Attorneys. Of this number, one was approved for appeal.

In the Supreme Court of Canada, one offender filed an application for leave to appeal. The Branch received decisions in three leave applications, one filed by the Branch and two by offenders. The Branch received judgment in one appeal in which the Crown had intervened.

APPENDIX D

Public Interest Disclosure of Wrongdoing

INFORMATION REQUIRED UNDER SECTION 18 OF THE ACT	FISCAL YEAR 2015-2016
The number of disclosures received	0
The number of findings of wrongdoing	0
Details of each wrongdoing	N/A
Recommendations and actions taken on each wrongdoing	N/A